

1 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

2 **RESOLUTION NO. 2012- _____**

3

4 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH**
5 **FLORIDA WATER MANAGEMENT DISTRICT AUTHORIZING THE**
6 **SETTLEMENT OF ALL CLAIMS AGAINST MORRISON PUMP COMPANY,**
7 **INC. ("MORRISON") RESULTING FROM THE PURCHASE BY THE**
8 **DISTRICT OF 15 HORIZONTAL AXIAL FLOW SUBMERSIBLE PUMPS**
9 **AND AUTHORIZING THE SUSPENSION OF MORRISON FOR A PERIOD**
10 **OF THREE YEARS FROM CONTRACTING WITH THE DISTRICT FOR**
11 **THE PURCHASE OF HORIZONTAL AXIAL FLOW SUBMERSIBLE**
12 **PUMPS; PROVIDING AN EFFECTIVE DATE.**

13

14 **WHEREAS,** the District and Morrison entered into District Contract No.
15 4500000062, dated June 9, 2006, for the purchase of 15 horizontal axial flow submersible
16 pumps; and

17 **WHEREAS,** the pumps failed and a dispute arose between the District and
18 Morrison as to the cause of the failure; and

19 **WHEREAS,** the Agreement, attached as Exhibit A, resolves this dispute; and

20 **WHEREAS,** pursuant to Rule 40E-7.281, Florida Administrative Code, the District
21 Governing Board is authorized to suspend Morrison from doing business with the District.

22 **WHEREAS,** in determining whether to suspend Morrison, the District Governing
23 Board has considered the following factors:

24 (a) The economic impact of the material breach to the District;

25 (b) Whether the breach caused or will cause delay in the completion of a District
26 project;

27 (c) If the breach caused a delay in performance, whether it was a substantial
28 delay;

- 1 (d) If the breach caused a delay in performance, whether the District will be
2 impacted in attempting to meet legislative deadlines;
- 3 (e) Whether the breach involved willful or gross misconduct;
- 4 (f) Whether the breach involved the commission of fraud or a criminal offense in
5 connection with the obtainment or performance of the District contract;
- 6 (g) Whether the breach was a violation of Federal or State antitrust statutes,
7 including those proscribing price fixing between competitors, allocation of
8 customers between competitors and bid rigging;
- 9 (h) Whether the breach involved the falsification or destruction of records;
- 10 (i) Whether the contracting entity was on the District's suspension list at the time
11 it breached its current contract with the District;
- 12 (j) Whether the contracting entity has materially breached a contract with the
13 District in the past, and if so, how many times since the effective date of this
14 rule;
- 15 (k) Whether the contracting entity was on another Federal or State suspension or
16 debarment list at the time it breached its current contract with the District;
- 17 (l) Whether the breach involved discrimination on the basis of race, color, creed,
18 national origin, sex, age or handicap;
- 19 (m) Whether the breach involved the commission of embezzlement, theft, forgery
20 or bribery; falsification of statements or claims; receipt of stolen property; or
21 obstruction of justice;
- 22 (n) Whether the breach involved the commission of any other offense indicating a
23 lack of business integrity or business honesty;
- 24 (o) Whether the breach involved knowingly doing business with a suspended
25 contracting entity;
- 26 (p) Whether the breach involved a violation of the District's MBE Contracting
27 Rule;
- 28 (q) Whether the contracting entity can pay re-procurement costs in a timely
29 manner.
- 30

31 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE**
32 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

33 **Section 1.** The Governing Board of the South Florida Water Management District
34 hereby approves the Agreement attached hereto and incorporated herein.

Section 2. The Governing Board of the South Florida Water Management District hereby authorizes the suspension of Morrison for a period of three years from contracting with the District for the purchase of horizontal axial flow submersible pumps.

Section 3. This resolution shall take effect immediately upon adoption.

PASSED and **ADOPTED** this _____ day of _____, 2012.

**SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD**

By: _____
Chair

ATTEST:

District Clerk

Approved as to form:

By: _____
Office of Counsel

Print Name _____